

**The Internal Revenue Service Should
Continue Its Efforts to Achieve Full
Compliance with Restrictions on the Use
of Enforcement Statistics**

September 1999

Reference Number: 199910073



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

INSPECTOR GENERAL
for TAX
ADMINISTRATION

September 29, 1999

MEMORANDUM FOR COMMISSIONER ROSSOTTI

A handwritten signature in black ink that reads "Pamela J. Gardiner".

FROM: Pamela J. Gardiner
Deputy Inspector General for Audit

SUBJECT: Final Audit Report - The Internal Revenue Service Should
Continue Its Efforts to Achieve Full Compliance with
Restrictions on the Use of Enforcement Statistics

This report presents the results of our review to determine the Internal Revenue Service's compliance with restrictions on the use of enforcement statistics.

In summary, we found the Internal Revenue Service (IRS) is currently not in full compliance with § 1204 of the Restructuring and Reform Act, Pub. L. No. 105-206, 112 Stat. 685 (1998). The results of our independent testing in 28 IRS offices show that the IRS has controls in place to identify and report violations; however, there are still instances when records of tax enforcement results are being used to evaluate employees or to impose or suggest production quotas or goals.

We did not make any recommendations for corrective action because the IRS' proposed regulations for a balanced system of business measures appears to be the appropriate first step in resolving these problems. As part of our Fiscal Year 2000 Audit Plan, we will assess the effectiveness of the progress and implementation of the balanced system of business measures as it relates to the use of enforcement statistics.

IRS management generally agreed to the issues addressed in this report and stated that it will take whatever steps are necessary to eliminate violations. In some cases, the IRS believes there is a need to involve IRS Counsel to clarify differences in interpretation, such as the inclusion of records of tax enforcement results in employees' self-assessments. In addition, IRS management plans to review documents where violations occurred and cycle time was overemphasized to resolve any interpretive difference that may exist regarding legal or procedural issues. Management's

comments have been incorporated into the report and the full text of their comments is included as an appendix.

Copies of this report are also being sent to the IRS managers who are affected by the report recommendations. Please contact me at (202) 622-6510 if you have any questions, or your staff may contact Maurice S. Moody, Associate Inspector General for Audit (Headquarters Operations and Exempt Organizations Programs), at (202) 622-8500.

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Executive Summary

The Internal Revenue Service (IRS) is prohibited from evaluating individual work performance in a way that may violate or encourage employees to violate taxpayer rights. For example, IRS employees cannot be evaluated on the amount of money they collect or assess, or the number of tax returns they audit. This might cause employees to concentrate more on collecting or assessing money rather than on deciding the correct amount of tax, which could lead to unfair or inequitable treatment of taxpayers.

The amount of dollars collected, the number of returns closed, or the dollar amount of assessments made are all records of tax enforcement results. The IRS has defined records of tax enforcement results as any statistic that measures quantity, time per return, talk time per call, type of disposition, or dollar value.

Records of tax enforcement results cannot be used to evaluate IRS employees or to impose or suggest production quotas or goals. Each quarter, supervisors are required to certify, in writing, that records of tax enforcement results are not being used to evaluate employees or to impose or suggest production quotas or goals.

On July 22, 1998, the President signed into law the IRS Restructuring and Reform Act, Pub. L. No. 105-206, 112 Stat. 685 (1998) (referred to as RRA 98). RRA 98 § 1204, Basis for Evaluation of Internal Revenue Service Employees, established these restrictions on the use of enforcement statistics and requires the IRS to use the fair and equitable treatment of taxpayers as a performance standard.

RRA 98 added 26 U.S.C. § 7803(d)(1)(A)(i) (1986) requiring the Treasury Inspector General for Tax Administration (TIGTA) to annually evaluate the IRS' compliance with the law. Accordingly, the objective of our review was to evaluate the IRS' compliance with RRA 98 § 1204.

Results

The IRS is currently not in full compliance with RRA 98 § 1204. The results of our independent testing in 28 IRS offices show that there are still instances when records of tax enforcement results are being used to evaluate employees or to impose or suggest production quotas or goals.

Three audit reports issued in 1997 and 1998 by the former IRS Internal Audit Division (now TIGTA) reported that IRS performance measures focused largely on enforcement goals and productivity, mainly dollars assessed or collected. In addition, corporate

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measures for the Collection and Examination functions focused on dollars collected or dollars recommended for assessment. IRS offices were ranked from 1 through 33, and employees were evaluated on the achievement of these goals.

The IRS has discontinued comparative ranking and distribution of any goals related to revenue production. The IRS has proposed a new balanced system of business measures that shifts the focus from enforcement statistics to customer service, employee satisfaction, and business results, including both quality and quantity measures.

In addition, the IRS has significantly improved management controls to identify and report RRA 98 § 1204 violations. The IRS has expanded the certification process to all supervisors of RRA 98 § 1204 employees. Supervisors are required to certify, in writing, that records of tax enforcement results were not used to evaluate employees or to impose or suggest production quotas or goals. The IRS implemented an independent review process to oversee the certification process and ensure IRS is following guidelines and complying with the law.

There Are Instances Where Records of Tax Enforcement Results Were Used to Evaluate Employees or to Impose or Suggest Production Quotas or Goals

We conducted independent testing in 28 IRS offices and reviewed over 4,900 documents. Ninety-eight percent of the documents contained no RRA 98 § 1204 violations. We identified 96 documents containing RRA 98 § 1204 violations. These documents were created on or after July 22, 1998, when RRA 98 was signed into law. We identified these RRA 98 § 1204 violations in the following:

- Forty documents, such as annual appraisals, workload reviews and award narratives, contained records of tax enforcement results used to evaluate the employees.
- Thirty-three self-assessments contained records of tax enforcement results used to evaluate employees. Executives and managers (non-bargaining unit employees) wrote these self-assessments as part of the evaluation process. The IRS Office of Chief Counsel does not believe that a record of tax enforcement results in a self-assessment constitutes a violation of RRA 98 § 1204. However, the IRS did report the use of records of tax enforcement results in self-assessments as violations in its certification and independent review processes.

In contrast, we believe self-assessments containing records of tax enforcement results do violate RRA 98 § 1204. Self-assessments are a fundamental part of the evaluation process for managers and executives. Managers and executives complete

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self-assessments and provide them to their managers for consideration when preparing their annual appraisals. In our experience, the self-assessments are usually associated with the annual appraisals. Quite often, self-assessments are attached and, in effect, become part of the annual appraisal.

- Twenty-three documents, such as IRS newsletters, reports of examination or collection activity and performance plans, contained records of tax enforcement results used to impose or suggest production quotas or goals.

We also identified 34 documents where we believe cycle time was overemphasized. Cycle time is the number of days a case remains unresolved. Although cycle time is not considered a record of tax enforcement results, the IRS' Managing Statistics Handbook, Internal Revenue Manual 105.4, states overemphasizing cycle time could lead employees to focus on closing cases as quickly as possible instead of focusing on appropriate case resolution.

In the past, the IRS has emphasized and relied upon tax enforcement results to establish budgets and to measure accomplishments. As a result, employees focused on tax enforcement results, such as dollars assessed or dollars collected, to achieve perceived enforcement goals. The IRS has improved its management controls used to identify and report RRA 98 § 1204 violations; however, the pattern of our findings suggests that established practices are difficult to change and every function still has some remnant of the prior process.

Some Employees Still Perceive That Records of Tax Enforcement Results Are Being Used to Evaluate Employees or to Impose or Suggest Production Quotas or Goals

Twenty-seven percent (124 of 456) of managers and employees responding to questionnaires on the use of enforcement statistics perceived that records of tax enforcement results were considered when their last performance evaluation was prepared and communicated to them, or they were used as performance goals. However, when asked to give examples of the records of tax enforcement results used, only 63 managers and employees could provide examples of improper use of records of tax enforcement results.

For managers and employees who provided examples or comments regarding the uses of enforcement statistics, the number of cases closed and hours spent working with a return were most often given as examples. These statistics were most often used to evaluate past performance rather than to impose or suggest production quotas or goals.

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The First Required Quarterly Certifications of Records of Tax Enforcement Results Reported Violations, But Were Inconsistent in How Violations Were Counted and Reported

The IRS identified approximately 525 documents containing RRA 98 § 1204 violations for the 3-month period of October 1 to December 31, 1998. These violations were identified in IRS functions with over 30,000 RRA 98 § 1204 employees.

Each quarter, supervisors of employees covered by RRA 98 § 1204 are required to certify, in writing, that records of tax enforcement results are not being used to evaluate employees or to impose or suggest production quotas or goals. In addition, the IRS has an independent review process to ensure it is complying with guidelines.

Our analysis of the IRS' certification and independent review results identified inconsistencies in how individual offices counted and reported the number of RRA 98 § 1204 violations. However, we believe that the IRS' results are representative of its use of records of tax enforcement results.

There is no one IRS official responsible for the certification process to ensure consistent and complete compliance with RRA 98 § 1204. The process is new and development is ongoing. Current guidelines used to identify, certify, and report RRA 98 § 1204 violations are being revised to include more examples of potential violations and more specific procedures. In addition, the IRS Commissioner has submitted proposed regulations on business performance measures that will affect future guidelines.

Employees Will Be Evaluated on Whether They Provide Fair and Equitable Treatment to Taxpayers

The IRS has proposed regulations that provide guidance and direction for establishing a balanced measurement system for the IRS. The proposal provides guidance for:

- Implementing the restrictions on the use of records of tax enforcement results to evaluate IRS employees or to impose or suggest production quotas or goals for such individuals.
- Including the fair and equitable treatment of taxpayers as one of the standards for evaluating employees.

The proposed regulations would establish a new balanced system for the IRS. The three elements of this balanced system are (1) Customer Satisfaction Measures, (2) Employee

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Satisfaction Measures, and (3) Business Results Measures. These measures will be based on quantifiable and measurable data.

This report has no recommendations for action beyond the IRS initiatives now being taken. Subsequent Office of Audit reviews will test the effectiveness of the new balanced system of business measures in addressing the appropriate use of tax enforcement statistics.

Management's Response: IRS management generally agreed to the issues addressed in this report and stated that they will take whatever steps are necessary to eliminate violations. In some cases, the IRS believes there is a need to involve IRS Counsel to clarify differences in interpretation, such as the inclusion of records of tax enforcement results in employees' self-assessments. In addition, IRS management plans to review documents where violations occurred and cycle time was overemphasized to resolve any interpretive difference that may exist regarding legal or procedural issues.

The IRS handbook has been revised to reflect the IRS' new Balanced System for Measuring Organizational and Employee Performance Within the Internal Revenue Service. Also, the IRS agreed that there was no one office responsible for the certification process and recently assigned this responsibility to the Deputy Commissioner Operations.

Management's complete response to the draft report is included in Appendix VII.

Office of Audit Comment: As part of our FY 2000 Audit Plan, we will assess the effectiveness of the progress and implementation of the balanced system of business measures as it relates to the use of enforcement statistics. During that audit, we will address, if necessary, the results of the IRS' review of the violations identified in this report.

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Objective and Scope

The overall objective of this audit was to evaluate the Internal Revenue Service's (IRS) compliance with restrictions on the use of enforcement statistics to evaluate IRS employees or to impose or suggest production quotas or goals. We performed this audit between January 1999 and May 1999 in accordance with *Government Auditing Standards*.

The IRS Restructuring and Reform Act, Pub. L. No. 105-206, 112 Stat. 702 (1998) requires the Treasury Inspector General for Tax Administration to evaluate the compliance of the IRS with restrictions on the use of enforcement statistics to evaluate IRS employees.

Our review involved testing in the following IRS offices:¹

- National Taxpayer Advocate
- National Director of Appeals
- Chief Operations Officer
- Executive Officer for Service Center Operations
- Assistant Commissioner (Collection)
- Assistant Commissioner (Criminal Investigation)
- Assistant Commissioner (Customer Service)
- Assistant Commissioner (Employee Plans/Exempt Organizations)
- Assistant Commissioner (Examination)
- Assistant Commissioner (International)
- Chief Management and Finance
- Chief Counsel

We conducted testing in all four Regional Commissioners' offices and, when appropriate, in all the above offices in eight Districts, three Service Centers, and the Customer Service Center. We judgmentally selected two District Offices in each region, three

¹ The IRS is currently undergoing a significant reorganization; however, during the time of this review, the IRS was organized into the National Office, 4 Regional Offices, 33 District Offices, 1 Customer Service Center, and 10 Service Centers. These offices have multiple operating divisions (functions), for example, Examination, Collection, Customer Service, Criminal Investigation, Appeals, Taxpayer Advocate, and Counsel.

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Service Centers, and the Customer Service Center in which to conduct testing after considering such factors as: past or current audit coverage in the Region, location of offices and staff, travel funds, office size, or results of prior reviews.

- Midstates Region Illinois District
 North Texas District
 Austin Service Center
- Northeast Region Brooklyn District
 New England District
 Brookhaven Service Center
- Southeast Region Delaware-Maryland District
 Georgia District
 Customer Service Center
- Western Region Los Angeles District
 Northern California District
 Ogden Service Center

We reviewed certification and independent review results, manager and employee evaluative documents, and managers' files, as well as interviewed a sample of enforcement employees.

We reviewed consolidated office memoranda and results of independent reviews. We also reviewed selected managers' annual appraisals, self-assessments and performance plans; managers' read files that include memoranda and guidance, minutes of meetings, and operational reviews; and selected employee performance files that include evaluations, awards, and case reviews.

We interviewed the heads of office and selected chiefs regarding their certification process and procedures. Using questionnaires, we interviewed selected first-line managers and a sample of their employees to determine their perspective on the IRS' use of records of tax enforcement results.

We contacted the local offices of the Assistant Inspector General for Investigations and Labor Relations to determine if there had been any complaints or grievances concerning the use of enforcement statistics. We also contacted the district directors and appropriate division chiefs located in the district headquarters offices and obtained information on any taxpayer

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complaints that related to the use of enforcement statistics. No complaints or grievances were identified; therefore, no testing or follow-up was required.

We also conducted interviews in the Office of Management and Finance and the Office of the Chief Counsel regarding the IRS' progress in establishing a new balanced performance measurement system.

There were some limitations to our review. We did not verify employees' responses to our questionnaires. We also did not conduct additional audit work to determine why records of tax enforcement results were used to evaluate or to impose or suggest production quotas or goals. In addition, we did not review tax returns or case results to determine if there was any effect to taxpayers, i.e., if the improper use of records of tax enforcement results directly or indirectly resulted in unfair or inequitable treatment of taxpayers.

The detailed objective, scope, and methodology of the review are included in Appendix I. Major contributors to this report are listed in Appendix II.

Background

In September 1997, the Senate Finance Committee learned that certain IRS offices relied on the use of enforcement statistics to measure collection personnel performance. The result was a work environment driven by statistical accomplishments that placed taxpayer rights and a fair employee evaluation system at risk.

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In 1997, the Congress learned that the IRS had a work environment driven by statistical accomplishments that placed taxpayer rights and a fair employee evaluation system at risk. The Congress passed RRA 98 § 1204 to prohibit the IRS from using records of tax enforcement results to evaluate employees or to impose or suggest production quotas or goals.

On July 22, 1998, the President signed into law the IRS Restructuring and Reform Act, Pub. L. No. 105-206, 112 Stat. 685 (1998) (referred to as RRA 98). RRA 98 § 1204, Basis for Evaluation of Internal Revenue Service Employees, prohibits the IRS from using records of tax enforcement results to evaluate employees or to impose or suggest production quotas or goals for such individuals. Instead, it must use the fair and equitable treatment of taxpayers by IRS employees as one of the standards for evaluating employee performance.

Each quarter, supervisors are required to certify, in writing, that records of tax enforcement results are not being used to evaluate employees or to impose or suggest production quotas or goals. This provision applies to evaluations originating on or after July 22, 1998.

RRA 98 added 26 U.S.C. § 7803(d)(1)(A)(i) (1986) requiring the Treasury Inspector General for Tax Administration to annually evaluate the compliance of the IRS with restrictions under RRA 98 § 1204 on the use of enforcement statistics to evaluate IRS employees. The results of the evaluation are to be included in one of the Inspector General's Semiannual Reports to the Congress.

The IRS' Internal Revenue Manual (IRM) 105.4, Managing Statistics Handbook, was issued to IRS employees in July 1998. This Handbook provides guidelines and procedures on the use of statistics. This Handbook defines a tax enforcement result, a record of tax enforcement results, and a RRA 98 § 1204 employee (enforcement officer).

Tax enforcement result: The IRM defines a tax enforcement result as "an outcome produced by an employee exercising judgment with regard to determining tax liability or ability to pay."

The IRM defines judgment as the ability to make decisions or form opinions in individual tax cases by

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evaluating the facts, circumstances, and law, and determining reasonableness or applicable policies.

Each IRS function has its own set of tax enforcement results. These results include a dollar amount of audit adjustment or a dollar amount collected on taxes owed. Results also include obtaining a delinquent return, filing a lien, serving a levy, or seizing an asset.

Records of Tax Enforcement Results: The IRM defines a record of tax enforcement results as “a figure resulting from the recordation, accumulation, tabulation, or mathematical analysis that is directly related to producing a tax enforcement result.”

Records of tax enforcement results are any statistic that measures quantity, time per case, talk time per call, type of disposition, or dollar value of enforcement officers’ activities.

As a general rule, a record of tax enforcement results is any statistic that measures quantity, time per case, talk time per call, type of disposition or dollar value of an enforcement officer’s activities. This includes dollars collected, the number of returns audited, the number of liens filed or levies served, the number of referrals for criminal investigation, the dollar amount of assessments made, the number of indictments, and the number of seizures made.

An enforcement officer is an employee who exercises judgment with regard to determining tax liability or the ability to pay.

Enforcement Officer: The IRM defines an enforcement officer as “an employee who exercises judgment with regard to determining tax liability or the ability to pay.”

The IRS has many types of enforcement officers in its various functions. They perform different duties and assignments. Enforcement officers include revenue officers who collect delinquent taxes, revenue agents who audit returns, special agents who investigate tax fraud, taxpayer advocates who resolve problem tax issues, appeals officers who hear appeals cases from other functions, and district and service center directors who approve collection and examination activities.

The IRM also provides procedures for the quarterly certification process and an annual independent review. This certification process begins with first-line managers of enforcement officers.

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Each quarter, supervisors are required to certify, in writing, that records of tax enforcement results are not being used to evaluate employees or to impose or suggest production quotas or goals.

Independent reviews of the certification process are conducted annually by cross-functional management teams to determine whether IRS employees are complying with guidelines on the use of records of tax enforcement results.

There are still some instances when records of tax enforcement results are being used to evaluate employees or to impose or suggest production quotas or goals.

First-line managers review their own activities for each fiscal year quarter and complete a self-certification. If violations are identified, the first-line manager must coordinate with the next level of management and note on the certification the proposed corrective actions.

Each higher level manager reviews his or her own activities and the subordinate managers' certifications. If there are areas of concern, the managers review their subordinates' activities. This process continues until the certifications reach the head of office (appropriate supervisor), who will certify for the office.

Appropriate supervisors are the highest-ranking executives in offices that supervise directly or indirectly one or more enforcement officers. Examples of appropriate supervisors are district and service center directors, regional commissioners, assistant commissioners, and national directors.

The appropriate supervisor also completes a self-certification form and combines all self-certifications into one consolidated office certification. These consolidated certifications are submitted to National Office executives.

In addition to the self-certification process, independent reviews are conducted annually. Cross-functional management teams conduct the independent reviews. These reviews must include a review of the employee performance files and employee evaluations and may include other documents, such as award narratives, minutes of meeting, case reviews, or local memoranda.

Results

The IRS is currently not in full compliance with RRA 98 § 1204. We identified 96 RRA 98 § 1204 violations in documents reviewed in 28 IRS offices. The results of our employee questionnaires showed that some employees still perceive that records of enforcement results are being used inappropriately.

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While we were conducting our review, the IRS was conducting its first RRA 98 § 1204 certifications and independent reviews. We analyzed the certifications and compared them to the independent reviews and determined that the IRS identified approximately 525 RRA 98 § 1204 violations.

This report provides the results of our evaluation of the IRS' compliance with restrictions under RRA 98 § 1204 on the use of enforcement statistics to evaluate IRS employees or to impose or suggest production quotas or goals. On the basis of our independent testing and analyses of the IRS certification process, we believe the results of our tests and analyses are representative of the IRS' current use of records of tax enforcement results.

There Are Instances Where Records of Tax Enforcement Results Were Used to Evaluate Employees or to Impose or Suggest Production Quotas or Goals

We identified 96 documents that contained RRA 98 § 1204 violations used to evaluate employees or to impose or suggest production quotas or goals.

We reviewed over 4,900 documents in 28 offices and identified 96 documents that contained records of tax enforcement results being used either to evaluate employees or to impose or suggest production quotas or goals. Thirty-three of the 96 documents were self-assessments completed by managers and executives during the evaluation process.

Violations reported by Audit are in addition to violations reported by the IRS.

These 96 documents were created on or after July 22, 1998, when the RRA 98 was signed into law. The violations we identified and included in this report are in *addition to violations reported by the IRS during its certification and independent review process*. Either the IRS did not identify and report these violations from the documents they reviewed or we identified the violations in documents the IRS was not required to review in its certification and independent review processes.

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The IRS identified approximately 525 RRA 98 § 1204 violations during its first quarterly certifications and independent reviews. The certification and independent review processes, as required by the IRS' Managing Statistics Handbook, covered the time period from October 1 to December 31, 1998. We reviewed documents created on or after July 22, 1998.

We also identified 34 documents where we believe cycle time was overemphasized. Cycle time is the number of days a case remains unresolved. Although cycle time is not considered a record of tax enforcement results, the Managing Statistics Handbook states overemphasizing cycle time could lead employees to focus on closing cases as quickly as possible instead of focusing on appropriate case resolution.

The 96 violations we identified are similar in nature to the violations identified by the IRS during its certification and independent review process. Appendix IV provides the number of violations we identified broken down by office.

During our review, we relied on the Managing Statistics Handbook to identify enforcement officers and inappropriate uses of records of tax enforcement results. We did not review individual tax cases to determine if taxpayers were adversely affected by the improper use of tax enforcement results.

We identified RRA 98 § 1204 violations in all major IRS functions.

We identified violations in all major IRS functions with enforcement officers. The following table gives a breakdown of violations by IRS function.

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Function	Number of Violations	
Appeals	2	2%
Collection	11	11%
Criminal Investigation	16	17%
Customer Service	11	12%
Employee Plans/Exempt Organizations	4	4%
Examination	20	21%
Others*	26	27%
Taxpayer Advocate	6	6%
Total	96	100%

* Others include the regional commissioners' and directors' offices.

In the past, the IRS has emphasized and relied upon tax enforcement results to establish budgets and to measure accomplishments. As a result, employees focused on tax enforcement results, such as dollars assessed or dollars collected, to achieve perceived enforcement goals. The IRS has improved its management controls used to identify and report RRA 98 § 1204 violations; however, the pattern of our findings suggests that established practices are difficult to change and every function still has some remnant of the prior process.

Forty documents contained records of tax enforcement results used to evaluate employees

We reviewed over 4,200 documents used to evaluate executives, managers, and employees, and identified 40 documents containing RRA 98 § 1204 violations. The records of tax enforcement results most often used inappropriately were "Productivity" type results, including indictment rate and fraud referrals.

Examples of records of tax enforcement results identified included the fraud referral acceptance rate, full payment on agreed cases, tax assessments, and case closures.

RRA 98 § 1204 violations used to evaluate enforcement officers included references to obtaining the highest fraud referral acceptance rate, securing full payment in agreed cases, assessing large amounts of taxes on one case, and reducing time on cases to allow more case closures. Fraud referrals, dollar results, and case closures are all records of tax enforcement results.

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RRA 98 § 1204 prohibits the IRS from evaluating individual employees' work performance in a way that might violate taxpayer rights. IRS employees cannot be evaluated on the amount of money they collect, the number of tax returns they audit, or the amounts of assessments they make. This might cause employees to concentrate more on assessing additional tax or collecting money rather than on deciding the correct amount of tax. This could lead to unfair or inequitable treatment of taxpayers.

**Thirty-three self-assessments contained records of
tax enforcement results used to evaluate employees**

*We identified 33
self-assessments containing
RRA 98 § 1204 violations.
However, the IRS Office of
Chief Counsel believes that
these instances would not
violate RRA 98 § 1204.*

We reviewed over 400 self-assessments and identified 33 containing RRA 98 § 1204 violations. These 33 self-assessments were written by executives and managers as part of their evaluation process.

Examples of records of tax enforcement results identified included dollar results; indictment, conviction, and publicity rates; and returns/cases closed.

We believe self-assessments containing records of tax enforcement results violate RRA 98 § 1204. Self-assessments are a fundamental part of the evaluation process for managers and executives. Managers and executives complete self-assessments and provide them to their managers for consideration when preparing their annual appraisals. In our experience, the self-assessments are usually associated with the annual appraisals. In most cases, self-assessments are actually attached, and, in effect, become part of the annual appraisal.

The IRS Office of Chief Counsel has taken the position that the use of records of tax enforcement results in self-assessments does not violate RRA 98 § 1204. However, the IRS did report the use of records of tax enforcement results in self-assessments as violations in its certification and independent review processes.

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The Managing Statistics Handbook states that self-assessments should not include records of tax enforcement results. If they do, feedback should be provided to the employee about why records of tax enforcement results are inappropriate and the employee should be given an opportunity to revise the self-assessment.

Twenty-three documents contained records of tax enforcement results used to impose or suggest production quotas or goals

We reviewed over 300 documents created on or after July 22, 1998, from 204 IRS executive and management files and identified 23 RRA 98 § 1204 violations. Documents reviewed included operational reviews, memoranda and guidance, minutes of meetings, and reports.

Examples of tax enforcement results identified included dollar results per return and case, cases closed, dollar amounts of assessments, and agreed dollars.

We identified various records of tax enforcement results used to impose or suggest production quotas or goals, including dollar results per return and case, cases closed, dollar amounts of assessments, and agreed dollars. Some of the documents compared results with other offices.

The records of tax enforcement results most often used inappropriately were “Productivity” and “Disposition” type results, including the number of delinquent returns secured, case closures, and no-change rate.

Generally, records of tax enforcement results should not be shared with branch chiefs and first-line managers or employees. Regional, district, and division results cannot be compared with other statistical results in business reviews. This could suggest production goals and quotas. The Managing Statistics Handbook states that comparative records of tax enforcement results cannot be used to impose or suggest production quotas or goals.

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Thirty-four documents included references to cycle time, which could lead employees to focus more on closing cases than on the proper resolution

We identified documents where we believe cycle time was overemphasized and could possibly lead employees to focus on closing cases as quickly as possible instead of focusing on appropriate case resolution.

We identified 34 documents where we believe cycle time was overemphasized (and may not have been balanced with quality measures). Although cycle time is not considered a record of tax enforcement results, the Managing Statistics Handbook states overemphasizing cycle time could lead employees to focus on closing cases, as quickly as possible, instead of focusing on appropriate case resolution.

The overemphasis of cycle time was identified in annual appraisals, self-assessments, performance plans, and operational reviews. The documents referred to concentrating on case-closing initiatives, closing cases as quickly as possible, and comparing closure rates with other employees.

We believe IRS management should be more careful concerning their use of cycle time. Employees might misinterpret the use of this statistic.

Use of cycle time will become even more important in the future with the proposal of the new regulations on “Balanced Measures of Performance.” Cycle time will be considered outcome-neutral production data and will be used in determining the production element of the business results measure. The IRS has determined that, as a matter of policy, this outcome-neutral production data may not be used to set goals for, or for evaluating, any non-supervisory employee with tax enforcement responsibilities.

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**Some Employees Still Perceive That Records of
Tax Enforcement Results Are Being Used to
Evaluate Employees or to Impose or Suggest
Production Quotas or Goals**

Twenty-seven percent of IRS managers and employees interviewed still perceive that records of tax enforcement results are used to evaluate their performance or to impose or suggest production quotas or goals.

Our analysis of questionnaire results shows that 124 of 456 (27 percent) managers and employees interviewed stated they perceived that tax enforcement results were considered when their last performance evaluation was prepared, communicated to them, or used as performance expectations or goals.

Using questionnaires, we interviewed a sample of managers and employees in functions with enforcement officers. In most functions, we randomly selected a first-line manager and four employees to interview. Because of the large number of enforcement officers in district Collection and Examination, we interviewed two first-line managers and eight employees from those offices and functions.

The interviews were not anonymous. Also, we asked the managers and employees to share only their perceptions. We did not obtain documents to substantiate their responses. However, if enforcement officers answered the questions with anything other than the record of tax enforcement results was of no importance or was not applicable when evaluating or setting goals, we asked for examples of the enforcement results and how they were used.

The interview questions consisted of asking enforcement officers the following:

1. If they perceived that their manager considered records of tax enforcement results in preparing their last performance evaluation. Ninety-three enforcement officers (20 percent) responded that records of tax enforcement results were of some, moderate, great, or very great importance.
2. If enforcement statistics had been communicated to them since July 22, 1998 (other than during

Twenty percent of enforcement officers (93 of 456) stated that they perceived that records of tax enforcement results were considered when their last performance evaluation was prepared. Fifteen percent (70 of 456) stated that records of tax enforcement results had been communicated to them.

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their evaluations). Seventy enforcement officers (15 percent) responded that records of tax enforcement results were communicated orally or in writing, in a group, or in a one-on-one setting.

3. If performance expectations (if applicable) included records of tax enforcement results. Ten employees (2 percent) stated that performance expectations included records of tax enforcement results.
4. If Fiscal Year (FY) 1999 performance goals, established for their group, included records of tax enforcement results. Eleven enforcement officers (2 percent) stated that performance goals included records of tax enforcement results.

Appendix V shows the interview results by office and function.

Some enforcement officers still perceive the IRS uses enforcement statistics to evaluate employees or set goals, but only 63 of the 456 enforcement officers interviewed provided us with examples.

Although some enforcement officers still perceive that enforcement statistics are being used to evaluate employees or to set goals, when asked to provide examples of records of tax enforcement results and how they were used, only 63 enforcement officers interviewed provided us with examples.

Enforcement officers stated that the following records of tax enforcement results were used most often to evaluate:

- Case/Work unit closures
- Hours spent per return
- Dollars assessed per return
- Fraud referrals

Enforcement officers stated that the following records of tax enforcement results were used most often to impose or suggest production quotas or goals:

- Case/Work unit closures
- Hours spent per return
- Fraud referrals

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The following are examples of statements made by the enforcement officers who responded that tax enforcement results were perceived to have been considered when their last performance evaluation was prepared, communicated to them, or used as performance expectations or goals.

- The manager would look for fraud discussion in the workpapers and write up an employee if it was not there.
- The employees are compared to other shifts on how much work they do.
- The employees felt they were evaluated on prosecution recommendations and prosecution rates, and there is a perception they have to obtain a certain number of prosecutions.
- Success is measured by prosecution success. High profile cases also affect success.
- Management uses numbers for statistical purposes and for evaluation purposes. Although management cannot or is not supposed to use numbers as a production tool, they are used for that purpose.
- There is nothing wrong with expecting an employee to get the most “bang for their buck.” (This was a comment from an employee.)
- The employee receives a report every 2 months showing cases over 180 days old, and the employee must explain why the cases are over 180 days old.
- Hours per return affect the evaluation of your work.
- The manager told the group that they were not meeting a production statistic.
- The manager verbally praised the employees for fraud referrals in a group setting.
- The Problem Resolution Program closure ranking by service center had been shared in a group setting.

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- The manager mentioned in a group setting that the volume of work is increasing and to stay accurate, but complete more work.
- If too much time is spent on a particular case, or cases, that may influence my performance evaluation. For example, if the result is a large dollar adjustment, then hours spent are justified.
- Although management does not use work units closed for comparative purposes, management would like more units closed. Management views too many hours per return as unfavorable, but an under-worked case might create taxpayer burden since the assessment may not be well developed.

In our opinion, some comments indicate enforcement officers do not understand what is a record of tax enforcement results and restrictions imposed by RRA 98 § 1204.

In our opinion, some of the examples and comments provided were specific examples of how records of tax enforcement results might be inappropriately used. However, some comments either did not relate or apply to records of tax enforcement results or did not indicate inappropriate use of records of tax enforcement results. We believe this shows that IRS employees are still confused as to what is a record of tax enforcement results and, when using them, creates a RRA 98 § 1204 violation.

The IRS has developed and administered a Corporate Climate Survey that will be used to gauge employee perceptions of corporate issues. One of the questions in the survey concerns the use of enforcement statistics in written evaluations and verbal communications.

The Managing Statistics Handbook defines records of tax enforcement results and includes examples of appropriate and inappropriate uses. For example, IRS employees cannot be evaluated on the amount of money they collect, the number of cases that are prosecuted, the number of cases closed, or the number of fraud referrals. Nor can these enforcement results be used to suggest or impose quotas or goals. This could lead to focusing more on statistics than on determining the correct

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Although cycle time is not a record of tax enforcement results, some comments made by enforcement officers further support our concern that it could be overemphasized, with negative effects to the taxpayer.

amount of tax to assess or the correct collection action to take.

In addition, some employee comments referred to cycle time. The IRS does not consider cycle time to be a record of tax enforcement results. However, employees' perceptions of how cycle time is being used further support our concern that it could be overemphasized, with negative effects to the taxpayer. Comments specific to cycle time were:

- Cycle time seems to be important in the overall plan of the division and I believe it was used somewhat in my overall evaluation.
- If an employee is taking a long time with a case, you check more closely.
- Memoranda and training materials received from a manager stress completing audits within cycle time, and do not appear to be overly concerned about quality.
- The group manager makes inferences about the quickness of the case closure, as if quickness is equated to quality. Quickness and quality are not synonymous.

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**The First Required Quarterly Certifications of
Records of Tax Enforcement Results Reported
Violations, But Were Inconsistent in How
Violations Were Counted and Reported**

The IRS identified approximately 525 documents containing RRA 98 § 1204 violations for the 3-month period of October 1 to December 31, 1998.² Though the actual number of violations reported by the IRS are representative of the IRS' use of records of tax enforcement results, we determined individual offices inconsistently counted and reported the number of RRA 98 § 1204 violations.

The IRS conducted its first RRA 98 § 1204 certifications and independent reviews during the time of this review. We analyzed the consolidated office certifications and compared them to independent reviews results. We determined the following.

**The IRS identified approximately 525 documents
with RRA 98 § 1204 violations in functions with over
30,000 employees who could potentially be evaluated
using records of tax enforcement results**

*Sixty-three heads of office
submitted consolidated office
certifications.*

The IRS identified approximately 525 documents with RRA 98 § 1204 violations during the certification and independent review processes. Sixty-three heads of office (appropriate supervisors) submitted consolidated office certifications. The certifications covered the IRS' 4 Regions, 33 Districts, 10 Service Centers, 15 division offices in the National Office, and the Customer Service Center. These IRS functions have over 30,000

²The IRS' consolidated office certifications reported 505 RRA 98 § 1204 violations. Our analysis determined there were approximately 525. We could not determine from its certifications the exact number of violations identified by the IRS. Not all certifications included the independent review results. In addition, there were inconsistencies in the way the IRS counted and reported the violations.

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employees who could potentially be evaluated using enforcement statistics.

We did not verify the certifications, but compared certification results to independent review results. We determined all appropriate supervisors, required to certify, provided consolidated office certifications or provided waivers stating they did not directly or indirectly supervise enforcement officers.

We analyzed the consolidated office certifications and independent reviews to determine which offices had violations and what records of tax enforcement results were most often identified as violations. We counted the number of documents containing violations. We did not count the number of violations in one document. One document with one violation or multiple violations was considered one violation. The 525 documents were identified in the following offices:

Offices	Violations	Percentage
National Office	37	7%
Service Centers	45	9%
Regional Offices	39	7%
District Offices*	404	77%
Total	525	100%

*114 of the violations were from three groups in one district office.

*The IRS identified
RRA 98 § 1204 violations in
all major IRS functions.*

Violations were identified in all major IRS functions with enforcement officers. A more detailed breakdown of the certification and the independent review results by office and function can be found in Appendix VI.

The record of tax enforcement results most often identified as a RRA 98 § 1204 violation was “Dollars” (e.g., dollars collected or dollars assessed). Other records of tax enforcement results identified as violations included “Productivity” (e.g., the number of returns secured, number of fraud referrals, number of seizures, number of prosecutions), “Time” (e.g., hours

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per return, hours per case), and “Dispositions” (e.g., returns closed, cases closed).

The consolidated office certifications had inconsistencies in the way the IRS counted and reported violations and did not report all violations for the first quarter of Fiscal Year 1999

We determined that IRS managers’ self-certifications identified only about 177 (34 percent) of the approximately 525 violations identified by the IRS for the first quarter of FY 1999. The independent review teams identified the remaining two-thirds of the violations.

From our review of the consolidated office certifications and independent reviews, we identified the following issues and concerns that might result in the IRS reporting an inaccurate number of violations.

- Some of the consolidated office certifications reported the independent review results; others did not. The Managing Statistics Handbook is vague and does not directly instruct the head of office to include the violations identified in the independent reviews in the consolidated office memorandum. The Handbook states that if additional violations are identified during the independent review, the appropriate supervisor should consider involving the head of function reviewed, determine appropriate corrective actions, and then prepare the consolidated office certification memorandum.
- Offices counted violations differently, making it difficult to obtain an accurate count of the number of violations. Some offices counted the number of documents while others counted the number of records of tax enforcement results. Other offices grouped violations together. The Managing Statistics Handbook does not include a standard method for counting and reporting violations.

Offices counted violations inconsistently, independent review teams were not always sure of the definition of a RRA 98 § 1204 violation, and independent review teams shared their results with managers prior to completion of the self-certifications.

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- Independent review teams were not always sure what constituted a RRA 98 § 1204 violation and, at times, some team members held discussions, resorted to voting, or reported “potential violations.” The Managing Statistics Handbook provided guidelines and examples, but some employees remain confused on what constitutes a RRA 98 § 1204 violation.
- Independent review teams shared results with managers prior to completion of the managers’ self-certifications. This allowed managers to revise their self-certifications, making it unclear who identified the violations. The Managing Statistics Handbook does not state that independent reviews can not coincide with the certification process and that review results can not be shared with certifying managers.

Toward the end of the review, we provided a list of our observations concerning the certification and independent review processes to the IRS team revising the Managing Statistics Handbook.

There is currently no IRS official solely responsible for the certification process.

There is currently no IRS official solely responsible for the certification process to ensure consistent and complete compliance with RRA 98 § 1204.

The IRS is revising guidelines used to identify, certify, and report RRA 98 § 1204 violations to include more examples of potential violations and more specific procedures. In addition, the IRS Deputy Commissioner Operations solicited suggestions for improving the process in a memorandum to all chief officers and regional commissioners as well as the IRS Executive Officer for Service Center Operations, the IRS National Director of Appeals, and the IRS National Taxpayer Advocate.

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Employees Will Be Evaluated on Whether They Provide Fair and Equitable Treatment to Taxpayers

The IRS has proposed regulations that provide guidance for implementing restrictions on the use of records of tax enforcement results and for including the fair and equitable treatment of taxpayers as one of the standards for evaluating employees.

The IRS has proposed regulations that provide guidance and direction for establishing a balanced measurement system. The final regulations are effective in September 1999. The proposal provides guidance for:

- Implementing the restrictions on the use of records of tax enforcement results to evaluate IRS employees or to impose or suggest production quotas or goals for such individuals.
- Including the fair and equitable treatment of taxpayers as one of the standards for evaluating employees.

The proposed regulations will establish a new balanced measurement system for the IRS. The three elements of this balanced system are (1) Customer Satisfaction Measures, (2) Employee Satisfaction Measures, and (3) Business Results Measures (quality and quantity). These measures will be based on quantifiable and measurable data.

Individual employees will continue to be evaluated based on the critical elements and standards established for each position. The performance criteria will be composed of the elements that support the organizational measures of Customer Satisfaction, Employee Satisfaction, and Quality. The fair and equitable treatment of taxpayers will be used to evaluate employee performance.

Conclusion

The IRS is not in full compliance with RRA 98 § 1204. There are still instances when records of tax enforcement results are being used inappropriately. In addition, some employees still perceive that records of

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tax enforcement results are being used to evaluate them or to suggest or impose production goals.

In the past, the IRS has emphasized and relied upon tax enforcement results to establish budgets and to measure accomplishments. As a result, employees focused on tax enforcement results, such as dollars assessed or dollars collected, to achieve perceived enforcement goals.

The IRS has improved its management controls used to identify and report RRA 98 § 1204 violations. In addition, the IRS has proposed a new balanced system of business measures that shifts the focus from enforcement statistics to customer service, employee satisfaction, and business results, including both quality and quantity measures.

We are not making any recommendations for corrective action at this time because the IRS' proposed regulations for a balanced system of business measures appear to be the appropriate first step in resolving these problems. As part of our FY 2000 Audit Plan, we will assess the effectiveness of the progress and implementation of the balanced system of business measures as it relates to the use of enforcement statistics.

Management's Response: IRS management generally agreed to the issues addressed in this report and stated that they will take whatever steps are necessary to eliminate violations. In some cases, the IRS believes there is a need to involve IRS Counsel to clarify differences in interpretation, such as the inclusion of records of tax enforcement results in employees' self-assessments. In addition, IRS management plans to review documents where violations occurred and cycle time was overemphasized to resolve any interpretive difference that may exist regarding legal or procedural issues.

The IRS handbook has been revised to reflect the IRS' new Balanced System for Measuring Organizational and Employee Performance Within the Internal Revenue

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Service. Also, the IRS agreed that there was no one office responsible for the certification process and recently assigned this responsibility to the Deputy Commissioner Operations.

Management's complete response to the draft report is included in Appendix VII.

Office of Audit Comment: As part of our FY 2000 Audit Plan, we will assess the effectiveness of the progress and implementation of IRS' new system of performance measures. During that audit, we will address, if necessary, the results of IRS' review of the violations identified in this report.

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Appendix I

Detailed Objective, Scope, and Methodology

On July 22, 1998, the President signed into law the Internal Revenue Service (IRS) Restructuring and Reform Act, Pub. L. No. 105-206, 112 Stat. 685 (1998) (referred to as RRA 98). RRA 98 § 1204 established restrictions on the use of enforcement statistics and required the IRS to use the fair and equitable treatment of taxpayers as a performance standard. RRA 98 also requires the Treasury Inspector General for Tax Administration to evaluate the IRS' compliance with the law. The objective of this review was to evaluate the IRS' compliance with RRA 98 § 1204.

We performed the following audit tests to accomplish our objective.

- I. Reviewed the following documents to obtain an understanding of the IRS' current guidelines and processes and the current operating climate and oversight provided by the IRS concerning the use of enforcement statistics.
 - A. Internal Revenue Manual (IRM) 105.4, Managing Statistics Handbook.
 - B. General Accounting Office report and prior IRS Internal Audit reports.
 - C. Intranet Site(s).
 - D. IRS Policy Statement P-1-20.
- II. Evaluated internal controls to determine whether the overall certification process identifies whether all "appropriate supervisors" and managers, required to certify, had certified for the first quarter of Fiscal Year (FY) 1999 (October 1 to December 31, 1998). Determined whether there were any violations identified. Determined whether independent reviews had been conducted and effectively completed.
 - A. Reviewed read files in each of the following IRS National Office functions for directives, memoranda, business and program reviews, training material, etc. concerning the use of enforcement statistics drafted and/or originating after July 22, 1998.
 - National Taxpayer Advocate
 - National Director of Appeals
 - Chief Operations Officer
 - Executive Officer for Service Center Operations
 - Assistant Commissioner (Collection)

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- Assistant Commissioner (Criminal Investigation)
 - Assistant Commissioner (Customer Service)
 - Assistant Commissioner (Employee Plans/Exempt Organizations)
 - Assistant Commissioner (Examination)
 - Assistant Commissioner (International)
 - Chief Counsel
- B. Reviewed the certification process, including the independent review process. Determined if all “appropriate supervisors” and required managers certified for the first quarter of FY 1999 whether there were any violations, and if independent reviews were effectively completed.
1. Identified National Office executive(s) responsible for monitoring and controlling the IRS’ certification process.
 2. Determined how violations are reported and processed and what penalties are applicable.
 3. Determined who in National Office is considered an “appropriate supervisor” and, therefore, required to certify.
 4. Determined if all “appropriate supervisors” required to certify had certified.
 5. Met with the IRS Office of Chief Counsel and discussed the certification process and requirements.
- NOTE: The IRS Office of Chief Counsel has decided to have managers and appropriate supervisors complete certifications. However, the IRS Office of Chief Counsel has not determined if it is required to certify that enforcement statistics are not used to evaluate its employees. Though certifications are being completed for the first quarter of FY 1999, they may not be completed in the future if it is determined that the IRS Office of Chief Counsel is not covered by RRA 98 § 1204.
6. Determined what directors *outside* the IRS National Office are considered an “appropriate supervisor” and, therefore, required to certify.
 - a) Contacted the IRS Deputy Commissioner Operations, the IRS Chief Operations Officer, and the IRS National Taxpayer Advocate to obtain copies of the directors’ self-certifications, consolidated office certification

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memoranda and independent review results for the first quarter of FY 1999.

- b) Determined if all “appropriate supervisors” required to certify had certified.
 - 7. Reviewed the methodology and results of the independent reviews of the certification process conducted by IRS management in districts, service centers, regional offices, and the IRS National Office.
 - 8. Reviewed the methodology and results of the IRS National Office peer review team visitations regarding the use of enforcement statistics.
 - C. Determined the status of the new Performance Measurement System and determined if it is meeting the intent of the law (requiring that the IRS use “fair and equitable treatment of taxpayers” as an evaluation standard).
 - 1. Conducted discussions with appropriate IRS National Office personnel to determine the status of the IRS’ proposed performance measurement system and identified how enforcement statistics will be included in the new process.
 - 2. Conducted discussions with appropriate IRS Management and Finance personnel to determine the status of the IRS’ plans to create one or more Customer Satisfaction Critical Job Elements for all positions that require taxpayer interaction.
 - D. Discussed with appropriate IRS Management and Finance personnel the status of the IRS’ plans to develop a Corporate Climate Survey, which will be used to survey employees periodically concerning the use of enforcement statistics in written evaluations and verbal communications.
- III. To determine the IRS’ compliance on the use of enforcement statistics to evaluate IRS employees or to impose or suggest production quotas or goals, conducted testing in the IRS National Office, four Regional Offices, eight District Offices, and four Centers (Service Center or Customer Service Center).
- National Office Customer Service Center
Employee Plans/Exempt Organizations
International

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- Midstates Region Regional Commissioner
 Director of Investigations
 Illinois District
 North Texas District
 Austin Service Center
- Northeast Region Regional Commissioner
 Brooklyn District
 New England District
 Brookhaven Service Center
- Southeast Region Regional Commissioner
 Director of Investigations
 Delaware-Maryland District
 Georgia District
- Western Region Regional Commissioner
 Director of Investigations
 Los Angeles District
 Northern California District
 Ogden Service Center

For the above offices, we conducted the following tests:

- A. Reviewed the head-of-office self-certifications and the consolidated office certifications for any violations.
 - 1. Reviewed read files, memoranda, business and program reviews, training material, etc., for information concerning the use of enforcement statistics created on or after July 22, 1998.
 - 2. Reviewed all applicable head-of-office FY 1998 Performance Evaluations, FY 1998 Self-Assessments, and FY 1999 Performance Plans to determine if the documents contained enforcement statistics used to evaluate employees or to impose or suggest production quotas or goals.
 - 3. Discussed with the applicable heads-of-office their certification process and procedures.
 - 4. Compared organization charts to the certifications.
 - a) Identified all managers required to certify and compared to the certifications to determine if all managers, required to certify, had certified.

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- b) Identified all managers who had not completed a certification and determined if they should have by analyzing the managers' job descriptions and/or the employee positions the managers supervise. Followed up on any questions or concerns with the appropriate supervisors or appropriate IRS personnel.
- 5. Reviewed the methodology and results of the independent reviews conducted in the applicable office.
- B. Randomly selected chiefs and managers assigned to the following relevant IRS functions: Appeals, Collection, Criminal Investigation, Customer Service, Employee Plans/Exempt Organizations, Examination, International, and Taxpayer Advocate, and:
 - 1. Reviewed selected chiefs' and managers' read files, memoranda, operational reviews, business and program reviews, and training materials for information concerning the use of enforcement statistics drafted and/or originating on or after July 22, 1998.
 - 2. Interviewed the selected chiefs and managers and reviewed their evaluations, self-assessments, and performance plans for use of enforcement statistics.
 - 3. Reviewed all employee evaluations and Employee Performance Folders for the employees assigned to the selected chiefs and managers. Documents reviewed were limited to those created on or after July 22, 1998.
 - 4. Randomly selected employees from each of the selected managers and conducted discussions with them concerning the use of enforcement statistics.
 - 5. Contacted the local offices of the Assistant Inspector General for Investigations and Labor Relations to determine if there had been any complaints or grievances concerning the use of enforcement statistics.
 - 6. Contacted the district directors and appropriate division chiefs located in the IRS district headquarters offices and obtained information on any taxpayer complaints that related to the use of enforcement statistics.

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Appendix II

Major Contributors to This Report

Maurice S. Moody, Associate Inspector General for Audit (Headquarters Operations and Exempt Organizations Programs)
M. Susan Boehmer, Director
Richard J. Dagliolo, Director
Gary E. Lewis, Director
Thomas H. Black, Acting Director
Mary V. Baker, Deputy Director
Augusta R. Cook, Audit Manager
Richard T. Hayes, Audit Manager
Gary L. Swilley, Audit Manager
Lou J. Tancabel, Audit Manager
Tammy L. Whitcomb, Audit Manager
Philip D. Adams, Senior Auditor
Richard J. Calderon, Senior Auditor
Anthony J. Choma, Senior Auditor
Tom J. Cypert, Senior Auditor
Gregory A. Dix, Senior Auditor
James D. Dorrell, Senior Auditor
Mary Lynn Faulkner, Senior Auditor
Javier L. Fernandez, Senior Auditor
Edward Gorman, Senior Auditor
Gerald Horn, Senior Auditor
Barry G. Huff, Senior Auditor
Michael D. Luongo, Senior Auditor
Donald L. McDonald, Senior Auditor
James S. Mills, Jr., Senior Auditor
Joanola Rose, Senior Auditor
Thomas F. Seidell, Senior Auditor
Mary C. Thomas, Senior Auditor
Steven E. Vandigriff, Senior Auditor
L. Jeff Anderson, Auditor
Margaret A. Anketell, Auditor
Anthony W. Anneski, Auditor
Douglas C. Barneck, Auditor
Theresa M. Berube, Auditor
Joyce J. Blackshire, Auditor

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Richard T. Borst, Auditor
David J. Brown, Auditor
Yolanda D. Brown, Auditor
Thomas H. Burroughs, Auditor
Kenneth L. Carlson, Jr., Auditor
Dolores M. Castoro, Auditor
Joseph F. Cooney, Auditor
Phillip Dearth, Auditor
Lena M. Dietles, Auditor
Rosemarie Doerge, Auditor
Charles I. Ekholm, Auditor
Charles O. Ekunwe, Auditor
Donald Evans, Auditor
George L. Franklin, Auditor
Gwendolyn Green, Auditor
Albert C. Greer, Auditor
Michelle Griffin, Auditor
Ken E. Henderson, Auditor
Steve E. Holmes, Auditor
Jean Kao, Auditor
Louis Lee, Auditor
David Lowe, Auditor
Gene A. Luevano, Auditor
Donald J. Martineau, Auditor
Abraham B. Millado, Auditor
George E. Millard, Auditor
Robert N. Nguyen, Auditor
John P. Ojeda, Auditor
Craig L. Pelletier, Auditor
Daniel B. Peterson, Auditor
Carol A. Rowland, Auditor
Rashme Sawhney, Auditor
Anthony L. Snowden, Auditor
Bill E. Thompson, Auditor
Ahmed M. Tobaa, Auditor
Esther M. Wilson, Auditor
Mildred R. Woody, Auditor
David B. Yorkowitz, Auditor
Laurelle E. Zamparelli, Auditor

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Appendix III

Report Distribution List

Deputy Commissioner Operations C:DO
National Director of Appeals C:AP
National Taxpayer Advocate C:TA
Chief Counsel CC
Chief Management and Finance M
Chief Operations Officer OP
Assistant Commissioner (Collection) OP:CO
Assistant Commissioner (Criminal Investigation) OP:CI
Assistant Commissioner (Customer Service) OP:C
Assistant Commissioner (Employee Plans/Exempt Organizations) OP:E
Assistant Commissioner (Examination) OP:EX
Assistant Commissioner (International) OP:IN
Assistant Commissioner (Program Evaluation and Risk Analysis) M:OP
Executive Officer for Service Center Operations OP:SC
National Director for Legislative Affairs CL:LA
Office of Management Controls M:CFO:A:M
Chief, Audit Assessment and Control Section IS:I:IS:O:A
Director of Investigations, Midstates Area of Operations OP:CI:MSR
Director of Investigations, Southeast Area of Operations OP:CI:SER
Director of Investigations, Western Area of Operations OP:CI:WR
Regional Commissioner (Midstates Region)
Regional Commissioner (Northeast Region)
Regional Commissioner (Southeast Region)
Regional Commissioner (Western Region)
Director, Austin Service Center
Director, Brookhaven Service Center
Director, Brooklyn District
Director, Customer Service Center
Director, Delaware-Maryland District
Director, Georgia District
Director, Illinois District
Director, Los Angeles District
Director, New England District
Director, North California District
Director, North Texas District
Director, Ogden Service Center

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Appendix IV

**Number of Restructuring and Reform Act § 1204 Violations
Identified by Audit During the Review**

Table IV.1:
Violations by National Offices

Office	Number of Violations
Assistant Commissioner (International)	3
Assistant Commissioner (Employee Plans/Exempt Organizations)	0
Total	3

Table IV.2:
Violations by Regional Offices

Office	Number of Violations
Midstates Regional Commissioner's Office	0
Midstates Director of Investigations	0
Northeast Regional Commissioner's Office	1
Northeast Director of Investigations	0
Southeast Regional Commissioner's Office	16
Southeast Director of Investigations	2
Western Regional Commissioner's Office	4
Western Director of Investigations	0
Total	23

Table IV.3:
*Violations by Service Centers
and the Customer Service Center*

Office	Number of Violations
Austin Service Center	7
Austin Service Center – Taxpayer Advocate	0
Brookhaven Service Center ¹	11
Customer Service Center (Atlanta)	2
Ogden Service Center	3
Ogden Service Center – Taxpayer Advocate	0
Total	23

¹ Taxpayer Advocate office included in Brookhaven Service Center memorandum.

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Table IV.4:
*Violations by
District Offices*

Office	Number of Violations
Illinois District ¹	2
Illinois District – Appeals	0
Illinois District – Customer Service ²	0
Illinois District – Taxpayer Advocate	1
North Texas District	6
North Texas District – Appeals	0
North Texas District – Taxpayer Advocate	0
Brooklyn District ³	9
Brooklyn District – Appeals	2
New England District	13
New England District – Appeals	0
New England District – Taxpayer Advocate	0
Delaware-Maryland District	3
Delaware-Maryland District – Appeals	0
Delaware-Maryland District – Taxpayer Advocate	0
Georgia District	4
Georgia District – Appeals	0
Georgia District – Taxpayer Advocate	2
Los Angeles District	3
Los Angeles District – Appeals	0
Los Angeles District – Taxpayer Advocate	0
Northern California District	2
Northern California District – Appeals	0
Northern California District – Taxpayer Advocate	0
Total	47

¹ All district offices include testing, if applicable, in the following functions: Collection, Criminal Investigation, Customer Service, Employee Plans/Exempt Organizations, and Examination.

² Reports to Kansas-Missouri District.

³ Taxpayer Advocate office included in Brooklyn District memorandum.

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Appendix V

Results of Employee Interviews by Office and Function

Table V.1:

*Number of Employees By
Office Who Perceived That
Records of Tax Enforcement
Results Are Being Used to
Evaluate Employees or to
Suggest or Impose
Production Quotas or Goals*

Office	Employees			
	Interviewed		Perceptions	
National Office	15	3%	2	2%
Regional Offices	24	5%	0	0%
District Offices	324	71%	93	75%
Customer Service Center	20	4%	5	4%
Service Centers	73	16%	24	19%
Total	456	99%*	124	100%

*Less than 100% due to rounding.

Table V.2:

*Number of Employees By
Function Who Perceived
That Records of Tax
Enforcement Results Are
Being Used to Evaluate
Employees or to Suggest or
Impose Production Quotas or
Goals*

Function	Employees	
	Interviewed	Perceived
Appeals	45	5
Collection	79	24
Criminal Investigation	40	12
Customer Service Center	20	5
Directors of Investigations	5	0
Employee Plans/Exempt Organizations	29	6
Examination	80	30
Field or District Customer Service	21	4
International	6	2
Regional Offices	19	0
Service Centers	60	22
Taxpayer Advocate	52	14
Total	456	124

**The Internal Revenue Service Should Continue
Its Efforts to Achieve Full Compliance with
Restrictions on the Use of Enforcement Statistics**

Appendix VI

**Number of Restructuring and Reform Act § 1204 Violations Identified by the
Internal Revenue Service During the Certification and Independent Review
Processes By Office and Function**

Table VI.1:

***RRA 98 § 1204 Violations in
National Office***

Office	Process Identifying Violation	
	Certification	Independent Review
Deputy Commissioner Operations	0	0
Chief Operations Officer	2	1
Executive Officer for Service Center Operations	0	3
Assistant Commissioner (Collection)	0	0
Assistant Commissioner (Criminal Investigation)	8	0
Assistant Commissioner (Customer Service)	2	2
Customer Service Center	12	5
Assistant Commissioner (Electronic Tax Administration)*	N/A	N/A
Assistant Commissioner (Employee Plans/Exempt Organizations)	0	0
Assistant Commissioner (Examination)	2	0
Assistant Commissioner (Forms and Submission Processing)*	N/A	N/A
Assistant Commissioner (International)	0	0
Assistant Commissioner (Research and Statistics of Income)*	N/A	N/A
International	0	0
National Director of Appeals	0	0
National Taxpayer Advocate	0	0
Total	26	11

*These offices submitted waivers stating they did not directly or indirectly supervise employees who might be evaluated using enforcement statistics.

Note: Violations identified by independent review teams are in addition to those identified by the certification process.

**The Internal Revenue Service Should Continue
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Table VI.2:

***RRA 98 § 1204 Violations in
Service Centers***

Office	Process Identifying Violation	
	Certification	Independent Review
Andover Service Center	0	0
Atlanta Service Center	0	0
Austin Service Center	4	0
Brookhaven Service Center	7	0
Cincinnati Service Center	2	6
Fresno Service Center	4	4
Kansas City Service Center	0	0
Memphis Service Center	0	0
Ogden Service Center	4	8
Philadelphia Service Center	1	5
Total	22	23

Table VI.3:

***RRA 98 § 1204 Violations in
Regional Offices***

Office	Process Identifying Violation	
	Certification	Independent Review
Midstates Region	0	1
Northeast Region	1	0
Southeast Region	1	0
Western Region	23	13
Total	25	14

**The Internal Revenue Service Should Continue
Its Efforts to Achieve Full Compliance with
Restrictions on the Use of Enforcement Statistics**

Table VI.4:

***RRA 98 § 1204 Violations in
District Offices***

Office	Process Identifying Violation	
	Certification	Independent Review
Arkansas-Oklahoma District	1	0
Brooklyn District	3	0
Central California District	0	11
Connecticut-Rhode Island District	4	6
Delaware-Maryland District	4	6
Georgia District*	5	140
Gulf Coast District	2	2
Illinois District	0	6
Indiana District	0	1
Kansas-Missouri District	5	0
Los Angeles District	6	1
Manhattan District	1	3
New Jersey District	7	1
North Central District	2	7
North Texas District	1	3
North-South Carolina District	6	0
Ohio District	33	5
Pacific Northwest District	2	6
Pennsylvania District	3	47
Southern California District	4	0
Southwest District	3	21
Upstate New York District	12	31
Virginia-West Virginia District	0	3
Total	104	300

*114 of the violations were from three groups in one district office.

Note: IRS certifications and independent reviews did not identify violations in the Northern California District, Houston District, Midwest District, South Texas District, Michigan District, New England District, Rocky Mountain District, Kentucky-Tennessee District, North Florida District, and South Florida District. These districts are not included in the table above.

**The Internal Revenue Service Should Continue
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Table VI.5:

***RRA 98 § 1204 Violations by
Function***

Function	Number of Violations	
Appeals	55	11%
Collection	70	13%
Criminal Investigation	34	6%
Customer Service	83	16%
Employee Plans/ Exempt Organizations	5	1%
Examination ¹	225	43%
Others ²	47	9%
Taxpayer Advocate	6	1%
Total	525	100%

¹ 114 of the 225 violations were from three groups in one district office.

² Others includes Service Center Compliance and Underreporter, the regional commissioners and directors.

**The Internal Revenue Service Should Continue
Its Efforts to Achieve Full Compliance with
Restrictions on the Use of Enforcement Statistics**

Appendix VII

Management's Response to the Draft Report



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224


September 22, 1999

OFFICE OF TREASURY
INSPECTOR GENERAL
RECEIVED

1999 SEP 23 P 3 58

FOR TAX ADMINISTRATION

MEMORANDUM FOR TREASURY INSPECTOR GENERAL FOR
TAX ADMINISTRATION

FROM: Charles O. Rossotti 
Commissioner of Internal Revenue

SUBJECT: Office of Treasury Inspector General for Tax Administration
Draft Audit Report - The Internal Revenue Service (IRS) Is Not
in Full Compliance with Restrictions on the Use of Enforcement
Statistics, But Controls Are in Place to Identify and Report
Violations (Ref. No. 19990058)

Thank you for the opportunity to respond to your draft report entitled "The Internal Revenue Service Is Not in Full Compliance with Restrictions on the Use of Enforcement Statistics, But Controls Are in Place to Identify and Report Violations." The report is a review of 4,900 documents created on or after July 22, 1998, through January 22, 1999. This time frame coincides with the enactment and implementation of the IRS Restructuring and Reform Act of 1998 (RRA). Without question, this was a time of significant change and transition because of the need to establish and provide needed procedural and legal guidance and training to implement the many changes mandated by the new legislation. We see this annual review as an opportunity to improve management controls for identifying and reporting RRA section 1204 violations, as well as assisting us in providing better and clearer guidance on managing statistics in a balanced measurement system.

We were pleased that the report recognized that IRS has significantly improved management controls to identify and report RRA section 1204 violations. While any violation will be taken seriously, I believe that the findings must be looked at from the perspective of how the IRS is striving to eliminate such errors in the future. Our own review and certification process for the first quarter of FY 1999 showed a decline in reported violations in excess of 85 percent over the period immediately after enactment (July 22 through September 1998). We believe that we are on the path to full compliance with RRA section 1204.

We will take whatever steps are necessary to eliminate violations in the future. In some violations, there is a need to involve Counsel to clarify points where we do not have the

The Internal Revenue Service Should Continue Its Efforts to Achieve Full Compliance with Restrictions on the Use of Enforcement Statistics

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same interpretation of the legal requirements; for example, the inclusion of records of tax enforcement results (ROTERTs) in employees' self assessments. Also, we want to review the documents that overemphasized cycle time. Although cycle time is not a ROTER and cannot result in a section 1204 violation, we recognized that misuse of cycle time may lead employees to focus on quick turnover rather than appropriate resolution of cases and addressed the issue in IRM 105.4, IRS' Managing Statistics Handbook. The specific instances of overemphasis that you found will enable us to issue clearer guidance on this issue. After we have completed our review of documents where violations occurred and cycle time was overemphasized, we would like to discuss our findings with your staff to resolve any interpretive differences that may exist regarding legal or procedural issues.

While there were no recommendations, there are several areas on which we need to comment. IRM 105.4, issued immediately after enactment of RRA, defines tax enforcement results as any statistic that measures quantity, time per return, talk time per call, type of disposition or dollar value. Because the IRS position has changed some of the examples of ROTERTs cited in the IRM are, neglecting these changes, incorrect. Regulation 801, Balanced System for Measuring Organizational and Employee Performance Within the Internal Revenue Service, which was issued on September 7, 1999, provides that cycle time and time per case are not ROTERTs. The revised handbook is being released this month.

We are concerned that 27 percent of managers and employees responding to a questionnaire on use of enforcement statistics perceived that ROTERTs were considered when their last performance evaluation was prepared and communicated to them, or they were used as performance goals. The revised IRM 105.4 incorporates guidance from RRA and Regulation 801 and provides additional examples. We believe the revised handbook will resolve several concerns identified in your report. In addition, the publication of Regulation 801 will also aid in clarifying what and how statistics may be used by management.

We also agree that no one office was responsible for the certification process. I have recently charged the Deputy Commissioner Operations with responsibility for oversighting the certification process.

If you have any questions or need additional information, please call me, or a member of your staff may contact Tom Wilson at 622-4400.